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Please deliver the following pages to:

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Sender: Alan D. Wasserman

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June 4, 1998

Kathleen Schneiders, Esq.
Assistant Regional Counsel
USEPA Region 5, C - 29A
77 West Jackson Blvd.
Chicago, IL 60604-3590

Re: ***Decker Manufacturing Corporation - Albion, Michigan***
Albion-Sheridan Township Landfill

Dear Ms. Schneiders:

I am in receipt of your May 29, 1998 correspondence regarding access issues at the former Gill and Prater properties acquired by Decker Manufacturing Corporation through its subsidiary.[1] As I indicated to you when we spoke on Monday, having not received a draft access agreement from Cooper and Corning identifying what type of access they required, Decker authorized me to draft an access agreement, which I forwarded to Mr. Smary on May 21, 1998. As of Monday, I had not received any response to this agreement.[2] Mr. Smary, however, had apparently left you with the impression that he felt that Decker's proposed draft was unreasonable and obstructionist. Mr. Smary conveyed the same opinion to me when I called him on Monday. I have enclosed a copy of the very agreement we sent to Mr. Smary. You can judge for yourself whether the document is an unreasonable first draft.

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[1]For ease of reference, I will refer to Decker Manufacturing Corporation and its subsidiary collectively as "Decker."

[2]In the midst of preparing this letter I received Mr. Smary's June 2, 1998 correspondence expressing his clients' now familiar "my way or the highway" position. I will respond to this letter by separate correspondence.

As I have said on many occasions, both verbally and in writing, the property was acquired for the sole purpose of facilitating completion of the UAO-related work. Decker has no interest in delaying this effort. Decker does have a legitimate interest in obtaining reasonable protections from liabilities it may incur as the property owner that might arise from the work to be performed on its property by contractors Decker did not hire and over whom Decker has no control. Decker is not seeking through this agreement any protection from its alleged liability, if any, as a generator at the site, nor does the proposed agreement provide such protection.

As you can see, the agreement contains: a) neutral recitals (many of which were taken from a previous draft participation agreement drafted by Cooper and Corning); b) a reporting requirement to insure that Decker is provided the documents that describe what will be done on the property; c) an agreement to provide the access to both Cooper and Corning and to the governmental agencies needed to implement the UAO-related work; d) a requirement that Cooper and Corning insure that Decker is covered by the contractor's insurance and that Cooper and Corning indemnify Decker for liabilities arising from their contractor's negligence, only; e) a guarantee that none of the parties would interfere with the work of the Project Coordinator; and f) an acknowledgement that Decker has taken certain actions pursuant to the UAO. I will address each of these aspects of the agreement below.[3]

a. Recitals. As you can see, according to its terms, the agreement itself was intended to be confidential. Thus, Mr. Smary's alleged concerns about self-serving admissions is not only without basis, but irrelevant. No one would have ever seen the agreement, nor could Decker introduce it as some sort of admission. But, if Mr. Smary wants to strike them all, all he has to do is to say so. I told Mr. Smary this when we spoke on Monday.

b. Reporting Requirement. Obviously, Decker has an interest in knowing what activities are to be performed at the property pursuant to the Remedial Design and Work Plan. Decker has asked the both Cooper and Corning and the EPA for these documents for well over a year. Unfortunately, your predecessor refused, without explanation, to respond to Decker's

[3]Paragraphs 3.7 "Utility Hookups", 5 "Subsequent Agreement", 6 "Confidentiality", 7 "Scope of Agreement", 9 "Denial of Liability", 10 "Notice", 11 "Time", and 12, "Effective Date", were all taken directly from Cooper and Corning's prior proposed participation agreement. I assume Cooper and Corning do not challenge the reasonableness of these provisions.

FOIA request. I now understand, however, that EPA is poised to release these documents. Decker appreciates your attention to this matter and, assuming Cooper and Corning do not raise any specious objections to the release of such documents, this issue will be obviated as to the current plans for the property. Decker will continue to insist on being apprised of any changes to planned activities and any future plans involving the property.

c. Scope of Access. The agreement provides the governmental agencies, the Project Coordinator and anyone else under the Project Coordinator's supervision, the access needed to perform the work required by the UAO, including the ability to extend the landfill cap onto the property. Not surprisingly, the proposed agreement includes standard notice provisions and precludes the Project Coordinator from conducting non-UAO-related activities on the property. I can't believe these requirements are objectionable in concept. If Mr. Smary or the EPA objects to the language used, Decker is certainly willing to consider alternative wording.

Because no one has told Decker what will be done on the property, the agreement also includes a prohibition on materially altering the property (extending the landfill cap is explicitly allowed) without further agreement. Decker cannot blindly give parties over which it has no control unfettered access and permission to do anything they want on the property when such activities may leave the property, which Decker will still own, in an unsafe condition. I'm sure once Decker is provided with a description of what will be done on the property, this provision can be modified to fit more precisely the anticipated work, or eliminated all together.

The agreement also prohibits Cooper and Corning from using soils from the property to build the landfill cap, unless otherwise agreed. Unilateral use by Cooper and Corning of soils and other natural resources of the property in this manner would go well beyond "access" and would allow Cooper and Corning to obtain an economic windfall. The UAO only requires that the cap be constructed -- implementation of the UAO does not require appropriation of soil from the property. Decker has no objection to sitting down and negotiating with Cooper and Corning regarding potential use of the property's soils, particularly if using these soils would speed up the process of implementing the UAO. But Cooper and Corning should not be allowed to use a simple access agreement to obtain an economic windfall. Removal of a large volume of soils may also create dangerous conditions on the property. All of these considerations would have to be addressed in a separate agreement.

d. Insurance and Indemnification. These are standard provisions in any access agreement. Adding Decker as an additional insured costs Cooper and Corning absolutely nothing. The indemnification requirement only applies to liabilities arising from the negligence

of the contractors that Cooper and Corning selected and control. It is not intended to extend to any liabilities that are the subject of this lawsuit. If Cooper and Corning feel the language of this provision is unnecessarily broad, Decker is certainly willing to consider alternative wording.

e. No Interference. There can't be any debate over this provision.

f. Effect of Agreement. This provision does not require Cooper and Corning to admit that any specific costs, or cost amounts, are recoverable. It just seeks to preclude them from arguing that Decker has refused to take any action to implement the UAO. Decker included this provision because it is tired of listening to Cooper and Corning running about in "Chicken Little" fashion yelling that Decker has done nothing. That simply is not true. Upon receiving confirmatory documentation, Decker would probably make a similar acknowledgement regarding the actions taken by Cooper and Corning. This provision was intended to move the parties beyond the finger pointing stage so that we can get the work done. Nothing more than that. Indeed, Mr. Smary's response to Decker's proposal is evidence of the need for this type of provision.

Conclusion

It is clear from Cooper and Corning's refusal to negotiate a reasonable access agreement that one of two things, perhaps both, are occurring. Cooper and Corning seem to perceive some litigation advantage in refusing to cooperate with Decker in completing the UAO-required work. It also appears, consistent with their earlier request to EPA, that Cooper and Corning are trying to delay implementing the work, and are trying to use the access issue to blame Decker for the delay they seek. It is unfortunate that Cooper and Corning have taken this course of action, to the detriment of what should be the common goal of completing the work required by the UAO in a timely fashion. We should be moving forward to implement the UAO and then let the allocation issues sort themselves out in the litigation..

Decker remains hopeful that the parties can agree on an acceptable method of providing the necessary access, but it is apparent that we can't do it on our own. Decker suggests that the EPA convene a conference call in which representatives of Cooper, Corning, Decker and EPA/DOJ would participate. The purpose of this call would be to see if a voluntary agreement can be reached. If this call is unsuccessful, or if the EPA does not wish to mediate this dispute, Decker is still willing to provide access to the property. Decker would ask the EPA to secure the needed access by order. Decker would accept and comply with any order that

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took into consideration the concerns set forth in this letter.

I look forward to hearing from you.

Very truly yours,

FINK ZAUSMER, P.C.

Michael L. Caldwell (ADW)

Michael L. Caldwell

cc: Frank Biros, Esq.
Eugene Smary, Esq.
Phillip Moilanen, Esq.

ALBION-SHERIDAN SITE
ACCESS AGREEMENT

This Access Agreement ("Agreement") is made and entered into on this ____ day of _____, 1998, by and among Cooper Industries, Inc. ("Cooper"), Corning Incorporated ("Corning"), Decker Manufacturing Corp. ("Decker") and Decker's wholly-owned subsidiary, C.D.C Associates, Inc. (Decker and C.D.C Associates, Inc. are hereinafter referred to collectively as "Decker"), each of them acting herein by and through their respective duly authorized officer or representative. Corning, Cooper, and Decker, are hereinafter sometimes collectively referred to as the "Parties" or individually as a "Party."

WHEREAS, in correspondence dated June 6, 1995, the United States Environmental Protection Agency ("EPA") notified the Parties and others that they were potentially responsible parties ("PRPs") at that certain property in Calhoun County, Michigan, defined as the Site in paragraph 1.1 below, which is now listed as the Albion-Sheridan Township Landfill Superfund Site ("Site") on the National Priorities List (listed October 4, 1989, at 54 Federal Register 41000, 41021); and

WHEREAS, the EPA issued a Unilateral Administrative Order ("UAO") effective December 11, 1995, to the Parties and the City of Albion, ordering the Respondents to perform the Remedial Design and Remedial Action required by the Record of Decision executed by EPA on March 28, 1995.

WHEREAS, without admitting any fact, responsibility or liability, each of the Parties, but not the City of Albion, has notified the EPA of its intent to comply with the UAO and each Party claims to have incurred response costs in connection with the UAO;

WHEREAS, in the absence of an internal cost allocation agreement among the Parties, Cooper and Corning have independently selected a Project Coordinator to serve as the environmental consultant to oversee the performance of the UAO-related work, and who, according to Cooper and Corning, has provided labor, materials, tools, supervision and equipment, and performed and/or overseen certain aspects of the work required by the UAO;

WHEREAS, Decker has purchased the properties adjacent to the Site formerly owned by Gill and Prater ("the Adjacent Properties") to which access is required in order to complete the work required by the UAO;

WHEREAS, each Party has filed claims in connection with the response costs it claims to have incurred in the lawsuit entitled United States of America v City of Albion, Case No. 1:97-CV-1037, which is pending in the United States District Court

for the Western District of Michigan ("the Lawsuit"), with each Party denying liability for the claims made against it;

WHEREAS, despite the Lawsuit and their inability to agree to a mutually acceptable method of allocating among themselves the common legal, technical, administrative and other costs incurred and to be incurred in connection performing the work required by the UAO, the Parties wish to cooperate among themselves in performing such work;

WHEREAS, Cooper and Corning have advised Decker that the Project Coordinator now requires access to the Adjacent Properties in order to implement the work required by the UAO;

WHEREAS, Decker wishes to provide the necessary access to the Adjacent Properties, consistent with this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS.

1.1 Albion-Sheridan (the "Site") as used herein shall mean the real property located at 29975 East Erie Road, approximately one mile east of the City of Albion, Sheridan Township, Calhoun County, Michigan. The inactive landfill covers approximately 18 acres and is situated between Michigan Avenue and East Erie Road, and is bordered on the east by the Calhoun/Jackson County line. The north branch of the Kalamazoo River is approximately 400 feet south of the site. More detailed information concerning the geographic location is available in the ROD.

1.2. The capitalized terms used and not otherwise defined herein shall have the respective meanings they are given in the UAO.

2. REPORTING REQUIREMENTS.

Cooper and Corning shall require the Project Coordinator to provide Decker with a copy of the 1) all work plans and reports required to be prepared by the UAO, 2) all other materials furnished to the EPA prior to the time such item(s) are provided to the EPA, and 3) all correspondence to or from the Project Coordinator involving the Site. If the EPA does not approve a plan or report, and the Project Coordinator submits a revised plan or report to the EPA, the Project Coordinator shall send a copy of the revised plan or report to Decker prior to the time such revised item(s) are provided to the EPA.

3. SITE ACCESS.

3.1 Scope of Access. Decker consents to officers, employees, and representatives of the Project Coordinator or any other environmental consultant, contractor, and any person or entity under the Project Coordinator's control to

supervision, entering and having access to the Adjacent Properties for the purpose of performing the work required by the UAO and taking any other action necessary to carry out this work, subject to the other terms of this Agreement. The Project Coordinator shall only perform UAO-related activities that require access after giving prior notice to Decker and only at reasonable times agreeable to Decker, such agreement shall not be unreasonably withheld. Neither the Project Coordinator, Cooper, Corning, nor any representatives of Cooper or Corning shall conduct activities at the Site that are not necessary to perform the UAO-related work. The access granted by this Agreement does not include the right to remove soils from the Adjacent Properties for placement on the Site as part of the required landfill cap or to intentionally alter the Adjacent Properties in a material way (other than by extending a portion of the proposed landfill cap onto the Adjacent Properties), unless otherwise agreed in writing.

3.2 Governmental Access. Decker also consents to representatives of EPA, its contractors and oversight officials, State of Michigan, and its contractors having access to the Adjacent Property to the extent required by the UAO.

3.3 Not EPA Representatives. Neither Cooper, Corning, nor Decker is a representative of the EPA with respect to liability associated with the Site activities.

3.4 Indemnification. Cooper and Corning, jointly and severally, shall defend, indemnify, and hold harmless Decker from any and all losses, claims, liabilities, expenses, and costs, including attorney fees (collectively "Liabilities"), arising directly or indirectly from the work performed on the Adjacent Properties pursuant to this Agreement or the exercise of the rights herein granted, to the extent such Liabilities arise from any negligent act or omission of Cooper, Corning, the Project Coordinator, their employees, representatives or agents, including any other environmental consultant, contractor, and any person or entity under the Project Coordinator's control or supervision.

3.5 Insurance. Cooper and Corning shall provide Decker with appropriate certificates of insurance demonstrating that the Project Coordinator and/or any other consultant or contractor working on the Adjacent Properties has obtained workman's compensation, comprehensive general liability, and professional liability insurance in place to cover the work performed regarding the Site and shall insure that such insurance is maintained throughout the course of the project. Cooper and Corning shall also have C.D.C. Associates, Inc. and Decker named as additional insureds under any such comprehensive general liability insurance policy.

3.6 Termination. The access granted by this Agreement shall terminate

upon EPA's issuance of written notification that the work required by the UAO has been completed consistent with paragraphs 42 and 84 of the UAO.

3.7 Utility Hookups. The Project Coordinator shall be responsible for complying with the requirements of all local governmental authorities and applicable utilities in connection with any utility hookups.

4. **NO INTERFERENCE WITH THE WORK.** Each Party agrees to reasonably cooperate with the Project Coordinator as to allow the Project Coordinator to perform and complete the requirements of the UAO.

5. **SUBSEQUENT AGREEMENT.** To the extent the Parties reach agreement regarding the equitable allocation of costs among themselves, this Agreement shall be conformed accordingly when an agreement on allocation is reached.

6. **CONFIDENTIALITY.** The Parties agree and acknowledge that except as otherwise provided herein, this Agreement and all documents and instruments created in connection herewith, except any document required to be produced pursuant to the UAO, are deemed confidential. The Parties agree to keep all such information strictly secret and confidential and not to reveal, divulge or disclose any such information or terms hereof to any third party, except 1) as may be required in connection with any court proceeding, including the Lawsuit, in which event the party required to make disclosure shall furnish advance notice thereof to all other parties to this Agreement in accordance with paragraph __ hereof, 2) in connection with any dispute involving the terms hereof, or 3) upon the written agreement of all the parties hereto. As used in this paragraph, insurers of the Parties are not considered third parties.

7. **SCOPE OF AGREEMENT.** The terms of this Agreement pertain only to the work as described in section 3.1 herein. However, this Agreement does constitute the entire agreement of the Parties hereto with regard to that work. Except as referenced elsewhere in this Agreement, there are no other agreements, oral or written, between the Parties regarding that work and this Agreement can be amended only by written agreement signed by the Parties hereto and by reference made a part hereof.

8. **EFFECT OF AGREEMENT.** Cooper and Corning acknowledge that Decker has incurred certain response costs in obtaining the access to the Adjacent Properties required to complete the work required by the UAO and that these costs were incurred consistent with the UAO, the EPA's instructions, and the relevant state

and federal rules and regulations regarding the incurrence of response costs. Cooper and Corning agree not to assert otherwise in the lawsuit.

9. **DENIAL OF LIABILITY.** Except as otherwise provided herein, this Agreement shall not under any circumstances constitute or be construed as an admission of liability, law or fact, a release or waiver of any right or defense, nor an estoppel against any Party as among themselves or by any other person not a Party. This Agreement shall not constitute or be used as evidence of any admission by the Parties, nor be admissible in any proceeding except in an action to seek enforcement of any of the terms herein.

10. **NOTICE.** Any notice, communication, request, reply or advice (severally or collectively referred to as "Notice") in this Agreement provided or permitted to be given, made or accepted by any party to any other party must be in writing. Notice may, unless otherwise provided herein, be given or served 1) by depositing same in United States mail, postage paid, certified mail, and addressed to the party to be notified, with return receipt requested, 2) by overnight courier or be addressed to the party to be notified, 3) by delivering the same to such party, or agent of such party, or 4) when appropriate, by sending a facsimile, electronic mail, telecopy, telegram or wire addressed to the party to be notified. Notice deposited in the mail in the matter herein above described shall be effective from and after such deposit.

11. **TIME.** Time is of the essence in all things pertaining to the performance of this Agreement. In this regard, the Project Coordinator will perform all actions as expeditiously as reasonable and possible.

12. **EFFECTIVE DATE.** The effective date ("Effective Date") of this Agreement shall be the date of execution of this Agreement by the last party signing as shown below. This Agreement may be signed and acknowledged in any number of counterparts, each one of which shall be considered an original and all of which shall collectively comprise the same agreement.

COOPER INDUSTRIES, INC.

By: _____

Title: _____

Dated: _____

CORNING INCORPORATED

By: _____

Title: _____

Dated: _____

DECKER MANUFACTURING CORP.

By: _____

Title: _____

Dated: _____

C.D.C. ASSOCIATES, INC.

By: _____

Title: _____

Dated: _____